

## **2009 DRAFTING REQUEST**

### **Bill**

Received: **02/02/2009**

Received By: **rryan**

Wanted: **As time permits**

Identical to LRB:

For: **Lena Taylor (608) 266-5810**

By/Representing: **Eric Peterson**

This file may be shown to any legislator: **NO**

Drafter: **rryan**

May Contact:

Addl. Drafters: **csundber**

Subject: **Criminal Law - miscellaneous  
Trade Regulation - other**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Taylor@legis.wisconsin.gov**

Carbon copy (CC:) to:

---

### **Pre Topic:**

No specific pre topic given

---

### **Topic:**

Retail theft; proof of ownership for sales at flea market

---

### **Instructions:**

See attached

---

### **Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rryan 02/11/2009	jdye 02/24/2009		_____			
/1	csundber 03/17/2009	jdye 03/18/2009	phenry 02/24/2009	_____	sbasford 02/25/2009		
/2	csundber 03/23/2009	jdye 03/23/2009	phenry 03/18/2009	_____	sbasford 03/18/2009		
/3			jfrantze	_____	lparisi	mbarman	

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			03/23/2009	_____	03/23/2009	04/14/2009	

FE Sent For: **NONE**

**<END>**

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/3			jfrantze		lparisi		

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03/23/2009 \_\_\_\_\_ 03/23/2009

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/1	csundber 03/17/2009	jdyer 03/18/2009	phenry 02/24/2009		sbasford 02/25/2009		
/2		13/23 jld	phenry 03/18/2009		sbasford 03/18/2009		
			3/23	3/23			

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/?	rryan	1/24 jld	by ph	by ph/ur			
FE Sent For:							
<END>							



**Ryan, Robin**

**From:** Peterson, Eric  
**Sent:** Monday, February 02, 2009 9:21 PM  
**To:** Ryan, Robin  
**Subject:** Drafting

Robin:

I need some drafting done.

2007 AB 340 as passed by the Assembly and amended by the Senate Judiciary Committee. Also need to include the following provision into the draft

Add language about shoplifting with intent to resell by internet:

A person who shoplifts retail property or a person who knowingly buys or believes he is buying stolen property taken in shoplifting incident, with the intent to sell that stolen property on an internet auction site or website commits the offense of "Shoplifting with Intent to Resell by Internet"

A person who violates this section is guilty of a Class I Felony.

If the person has sold the same or similar type property on an internet auction site or website within the past 90 days, it is "prima facie evidence" of Shoplifting with Intent to Resell by Internet.

Feel free to call me if you need anything.

Eric

**Eric M. Peterson**

Chief of Staff, Senator Lena C. Taylor  
Wisconsin State Senator - 4th Senate District  
t - 608-266-5810 f - 608-267-2353

MA 1 - elim. signature  
MA 2 - elim. DA provision for  
racketeering  
SA 1 - \$500 → \$1,500

this is to  
replace  
provision that  
provides 2 felony  
for theft w/  
intent to sell

## Ryan, Robin

---

**From:** Peterson, Eric  
**Sent:** Monday, February 09, 2009 5:03 PM  
**To:** Ryan, Robin  
**Subject:** RE: retail theft redraft

fine not to exceed \$500/imprisonment not to exceed 30 days

### *Eric M. Peterson*

Chief of Staff, Senator Lena C. Taylor  
Wisconsin State Senator - 4th Senate District  
t - 608-266-5810 f - 608-267-2353

---

**From:** Ryan, Robin  
**Sent:** Monday, February 09, 2009 5:02 PM  
**To:** Peterson, Eric  
**Subject:** retail theft redraft

Eric,

We had a discrepancy in 07 AB 340 with respect to the penalty for selling merchandise at a flea market without satisfying the requirements created in the bill for proof of ownership. Proposed s. 134.715 (3) says the penalty is a Class C misdemeanor (fine not to exceed \$500/imprisonment not to exceed 30 days). The last line of the analysis says the penalty is a fine not to exceed \$500/imprisonment not to exceed 6 months. What penalty do you want?

Thanks,  
Robin

02/09/2009

2058/1

In 2/11/09

RMNR

## 2007 ASSEMBLY BILL 340

## 2009 BILL

May 15, 2007 - Introduced by Representatives KLEEFISCH, KESTELL, OWENS, ALBERS, BIES, GRONEMUS, HAHN, JESKEWITZ, JORGENSEN, KAUFERT, KERKMAN, LEMAHIEU, LOTHIAN, NYGREN, A. OTT, J. OTT, VAN ROY, VOS and ZIEGELBAUER, cosponsored by Senators OLSEN, LEIBHAM, RISSE and ROESSLER. Referred to Committee on Criminal Justice.

- 1 AN ACT *to renumber* 946.88 (3); *to amend* 943.50 (4) (a), 943.50 (4) (bf) and  
 2 946.82 (4); and *to create* 134.715, 943.50 (4m) and 946.88 (3) (b) of the statutes;  
 3 **relating to:** retail theft, proof of ownership for certain sales, and providing  
 4 penalties. ✓

### *Analysis by the Legislative Reference Bureau*

Under current law, the penalty for retail theft is based on the value of the merchandise taken. Retail theft is a Class A misdemeanor if the value of the merchandise does not exceed \$2,500, a Class I felony if the value of the merchandise exceeds \$2,500 but does not exceed \$5,000, a Class H felony if the value of the merchandise exceeds \$5,000 but does not exceed \$10,000, and a Class G felony if the value of the merchandise exceeds \$10,000.

Also under current law a person may be convicted of engaging in organized crime, a Class E felony, if the person participates as part of an enterprise (which may be a group of associates) in the commission of at least three incidents of racketeering activity that have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics. "Racketeering activity" is the attempt, conspiracy to commit, or commission of various felonies including felony retail theft. The attorney general may prosecute organized crime. A district attorney may prosecute organized crime only with the prior written approval of the attorney general.

This bill makes retail theft of merchandise a Class I felony if the value of the merchandise exceeds \$500 but does not exceed \$5,000, and thus makes retail theft

✓  
\$1,500 ✓

✓ and racketeering activity,

## ASSEMBLY BILL 340

of merchandise valued at \$500 or more racketeering activity. The bill also makes retail theft of merchandise that is valued at less than \$500 a Class I felony if the actor commits the theft with intent to sell the merchandise. Finally, the bill provides that a district attorney may prosecute organized crime without the prior written approval of the attorney general if at least one of the incidents of racketeering activity is an attempt, conspiracy to commit, or commission of retail theft that occurred in a county served by the district attorney. *INS 4*

The bill also requires a person selling certain merchandise at a flea market or similar facility to have proof that the person owns the merchandise and to make the proof available to a law enforcement officer for inspection. The merchandise covered by the bill's requirements includes baby food, cosmetics, drugs, infant formula, and batteries. Under the bill, proof of ownership means all of the following: 1) the name, address, telephone number, and signature of the supplier of the merchandise; 2) the name and address of the person that received the merchandise; and 3) a description of the merchandise. Violators are subject to a fine up to \$500, up to six months imprisonment, or both. *and* *30 days*

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 134.715 of the statutes is created to read:

**134.715 Proof of ownership required for sale.** (1) DEFINITIONS. In this section:

(a) "Cosmetic" means an article intended to be applied to the human body for cleansing, beautifying, or altering appearance, but does not include soap.

(b) "Device" has the meaning given in s. 450.01 (6).

(c) "Drug" has the meaning given in s. 450.01 (10).

(d) "Infant formula" means a food that is intended for consumption by infants.

(2) PROOF REQUIRED. (a) A person engaged in the sale of used or new goods at a flea market or at a similar facility may not sell any of the following merchandise, unless the person has proof that the person is the owner of the merchandise as described in par. (b):

1. Baby food of a type usually consumed by children under 3 years of age.

## ASSEMBLY BILL 340

1 2. Cosmetics.✓

2 3. Devices.✓

3 4. Drugs.✓

4 5. Infant formula.✓

5 6. Batteries.✓

6 7. Razor blades.✓

7 (b) Proof of ownership means all of the following information:

8 1. The name, address, telephone number, and signature of the person that  
9 supplied the merchandise or a representative of the person that supplied the  
10 merchandise.✓

11 2. The name and address of the person that received the merchandise from the  
12 person who supplied the merchandise.✓

13 3. A description of the product, including the quantity of the product received  
14 from the person who supplied the merchandise.✓

15 (c) A person required to have proof of ownership under this section shall make  
16 proof of ownership available for inspection by a law enforcement officer at any  
17 reasonable time.✓

18 (3) PENALTY. A person who violates this section is guilty of a Class C

19 misdemeanor. may be fined not more than \$500 or imprisoned for  
not more than 30 days or both.

20 SECTION 2. 943.50 (4) (a) of the statutes is amended to read:

21 943.50 (4) (a) ~~A~~ Except as provided in sub. (4m), a Class A misdemeanor, if  
22 the value of the merchandise does not exceed \$2,500 \$500. \$1,500✓

23 SECTION 3. 943.50 (4) (bf) of the statutes is amended to read:

24 943.50 (4) (bf) A Class I felony, if the value of the merchandise exceeds \$2,500

25 \$500 but does not exceed \$5,000.

INS  
379

\$1,500✓

## ASSEMBLY BILL 340

## SECTION 4

1 SECTION 4. 943.50 (4m) of the statutes is created to read:

2 943.50 (4m) Whoever violates sub. (1m) (a), (b), (c), (d), (e), or (f) with intent  
3 to sell the merchandise is guilty of a Class I felony if the value of the merchandise  
4 does not exceed \$500. *\$1,500*

5 SECTION 5. 946.82 (4) of the statutes is amended to read:

6 946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961  
7 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission  
8 of any of the felonies specified in: chs. 945 and 961 and ss. 49.49, 134.05, 139.44 (1),  
9 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637,  
10 221.1004, 551.41, 551.42, 551.43, 551.44, 553.41 (3) and (4), 553.52 (2), 940.01,  
11 940.19 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.305, 940.31, 941.20  
12 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g),  
13 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3)  
14 (bf) to (e), 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27, 943.28,  
15 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and  
16 (c), 943.50 (4) (bf), (bm), and (c) ~~and (4m)~~, 943.60, 943.70, 943.76, 943.81, 943.82,  
17 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e),  
18 944.32, 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10,  
19 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65,  
20 946.72, 946.76, 946.79, 947.015, 948.05, 948.08, 948.12, and 948.30.

21 SECTION 6. 946.88 (3) of the statutes is renumbered 946.88 (3) (a).

22 SECTION 7. 946.88 (3) (b) of the statutes is created to read:

23 946.88 (3) (b) Notwithstanding par. (a), a district attorney may institute  
24 criminal proceedings under ss. 946.80 to 946.88 without the prior written approval  
25 of the attorney general if at least one of the incidents constituting a pattern of

**ASSEMBLY BILL 340**

1 racketeering activity is an attempt, conspiracy to commit, or commission of a felony  
2 under s. 943.50 that occurred in a county served by the district attorney.

3 (END)

**2009-2010 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-2058/1ins  
RLR:.....

1       **Ins A:**

2       ~~no \$~~ by means of the Internet. ✓ The bill further provides that evidence that a person  
3       sold merchandise that is similar to stolen merchandise, ✓ by means of the Internet ✓ and  
4       within 90 ✓ days preceding the theft, is evidence of the person's intent to sell the stolen  
5       merchandise by means of the Internet. ✓

6

7       **Ins 3-19:**

8       **SECTION 1.** 943.50 (3m) (am) ✓ of the statutes is created to read:

9       943.50 (3m) (am) For the purpose of sub. (4m), ✓ evidence that a person sold by  
10       means of the ✓ Internet merchandise that is similar to the merchandise that is the  
11       subject of a violation under sub. (1m), ✓ (a), ✓ (b), ✓ (c), ✓ (d), ✓ (e), ✓ or (f), ✓ within ✓ 90 days before  
12       the violation, is ✓ prima facie evidence of the person's intent to sell the ✓ merchandise  
13       by means of the Internet. ✓

14

15       **Ins 4-4:**

16       **SECTION 2.** 946.82 (4) ✓ of the statutes is amended to read:

17       946.82 (4) "Racketeering activity" ✓ means any activity specified in 18 USC 1961  
18       (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission  
19       of any of the felonies specified in: chs. 945 and 961, subch. V of ch. 551, and ss. 49.49,  
20       134.05, 139.44 (1), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625,  
21       221.0636, 221.0637, 221.1004, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (4) to (6),  
22       940.20, 940.201, 940.203, 940.21, 940.30, 940.302 (2), 940.305, 940.31, 941.20 (2) and  
23       (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g), 943.011,  
24       943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (bf) to (e),  
25       943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27, 943.28, 943.30, 943.32,





1 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4)  
2 (bf), (bm), and (c), and (4m) ✓, 943.60, 943.70, 943.76, 943.81, 943.82, 943.83, 943.84,  
3 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e), 944.32, 944.33  
4 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11, 946.12,  
5 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76,  
6 946.79, 947.015, 948.05, 948.051, 948.08, 948.12, and 948.30.

NOTE: NOTE: Sub. (4) is shown as affected by 2 acts of the 2007 Wisconsin legislature and as merged by the legislative reference bureau under s. 13.92 (2) (f). NOTE:

History: 1981 c. 280; 1983 a. 438; 1985 a. 104; 1985 a. 236 s. 15; 1987 a. 266 s. 5; 1987 a. 332, 348, 349, 403; 1989 a. 121, 303; 1991 a. 32, 39, 189; 1993 a. 50, 92, 94, 112, 280, 441, 491; 1995 a. 133, 249, 336, 448; 1997 a. 35, 79, 101, 140, 143, 252; 1999 a. 9, 150; 2001 a. 16, 105, 109; 2003 a. 36, 321; 2005 a. 212; 2007 a. 116, 196; 13.92 (2) (f).

(end ins)

## **Sundberg, Christopher**

---

**From:** Ryan, Robin  
**Sent:** Thursday, February 26, 2009 1:10 PM  
**To:** Sundberg, Christopher  
**Subject:** FW: Drafting

Chris, this redraft requests deals with trade reg part of the draft. Will you do it?

---

**From:** Peterson, Eric  
**Sent:** Thursday, February 26, 2009 11:48 AM  
**To:** Ryan, Robin  
**Subject:** Drafting

Robin,

Can I get a little redrafting on LRB 09-2058/1. I need to add a provision that would require a proof of purchase or receipt for return of items. The list of items is the same as identified in the bill for flea-markets (page 2, line 13 - page 3, line 4).

Thanks so much, Eric

***Eric M. Peterson***

Chief of Staff, Senator Lena C. Taylor  
Wisconsin State Senator - 4th Senate District  
t - 608-266-5810 f - 608-267-2353

## Sundberg, Christopher

---

**From:** Peterson, Eric  
**Sent:** Tuesday, March 10, 2009 10:09 PM  
**To:** Sundberg, Christopher  
**Subject:** RE: Drafting

Require them to accept returns.

I will deal with the politics on that question later

Thanks Chris

### ***Eric M. Peterson***

Chief of Staff, Senator Lena C. Taylor  
Wisconsin State Senator - 4th Senate District  
t - 608-266-5810 f - 608-267-2353

---

**From:** Sundberg, Christopher  
**Sent:** Friday, February 27, 2009 10:59 AM  
**To:** Peterson, Eric  
**Subject:** RE: Drafting

What if seller won't accept returns?

---

**From:** Peterson, Eric  
**Sent:** Thursday, February 26, 2009 9:05 PM  
**To:** Sundberg, Christopher  
**Subject:** RE: Drafting

Chris,

I am only looking to require a receipt for return of the purchase.

Call me if you have questions.

Eric

### ***Eric M. Peterson***

Chief of Staff, Senator Lena C. Taylor  
Wisconsin State Senator - 4th Senate District  
t - 608-266-5810 f - 608-267-2353

---

**From:** Sundberg, Christopher  
**Sent:** Thursday, February 26, 2009 1:32 PM  
**To:** Peterson, Eric  
**Subject:** FW: Drafting

Do you mean the draft should require a person who sells anything on the list to issue to the buyer a receipt? And the seller must accept a return of the item purchased when accompanied by the receipt?

---

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**Sent:** Thursday, February 26, 2009 1:10 PM  
**To:** Sundberg, Christopher  
**Subject:** FW: Drafting

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***Eric M. Peterson***

Chief of Staff, Senator Lena C. Taylor  
Wisconsin State Senator - 4th Senate District  
*t - 608-266-5810 f - 608-267-2353*

## **Sundberg, Christopher**

---

**From:** Peterson, Eric  
**Sent:** Wednesday, March 11, 2009 5:26 PM  
**To:** Sundberg, Christopher  
**Subject:** RE: Drafting

Let's start with substantially same condition. No mention of time-line.

Eric

### ***Eric M. Peterson***

Chief of Staff, Senator Lena C. Taylor  
Wisconsin State Senator - 4th Senate District  
t - 608-266-5810 f - 608-267-2353

---

**From:** Sundberg, Christopher  
**Sent:** Wednesday, March 11, 2009 9:15 AM  
**To:** Peterson, Eric  
**Subject:** RE: Drafting

Should the bill specify under what circumstances sellers must accept returns, i.e., in substantially the same condition in which they were sold, up to a certain number of days after the sale?

If you don't want to mess with it, that's fine, but it seems like something I ought to ask.

CS

---

**From:** Peterson, Eric  
**Sent:** Tuesday, March 10, 2009 10:09 PM  
**To:** Sundberg, Christopher  
**Subject:** RE: Drafting

Require them to accept returns.

I will deal with the politics on that question later

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### ***Eric M. Peterson***

Chief of Staff, Senator Lena C. Taylor  
Wisconsin State Senator - 4th Senate District  
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**From:** Sundberg, Christopher  
**Sent:** Friday, February 27, 2009 10:59 AM  
**To:** Peterson, Eric  
**Subject:** RE: Drafting

What if seller won't accept returns?

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**From:** Peterson, Eric

**Sent:** Thursday, February 26, 2009 9:05 PM  
**To:** Sundberg, Christopher  
**Subject:** RE: Drafting

Chris,

I am only looking to require a receipt for return of the purchase.

Call me if you have questions.

Eric

***Eric M. Peterson***

Chief of Staff, Senator Lena C. Taylor  
Wisconsin State Senator - 4th Senate District  
t - 608-266-5810 f - 608-267-2353

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**From:** Sundberg, Christopher  
**Sent:** Thursday, February 26, 2009 1:32 PM  
**To:** Peterson, Eric  
**Subject:** FW: Drafting

Do you mean the draft should require a person who sells anything on the list to issue to the buyer a receipt? And the seller must accept a return of the item purchased when accompanied by the receipt?

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**From:** Ryan, Robin  
**Sent:** Thursday, February 26, 2009 1:10 PM  
**To:** Sundberg, Christopher  
**Subject:** FW: Drafting

Chris, this redraft requests deals with trade reg part of the draft. Will you do it?

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**From:** Peterson, Eric  
**Sent:** Thursday, February 26, 2009 11:48 AM  
**To:** Ryan, Robin  
**Subject:** Drafting

Robin,

Can I get a little redrafting on LRB 09-2058/1. I need to add a provision that would require a proof of purchase or receipt for return of items. The list of items is the same as identified in the bill for flea-markets (page 2, line 13 - page 3, line 4).

Thanks so much, Eric

***Eric M. Peterson***

Chief of Staff, Senator Lena C. Taylor  
Wisconsin State Senator - 4th Senate District  
t - 608-266-5810 f - 608-267-2353



## 2009 BILL

Regen

✓ and receipts for flea market

- 1 AN ACT *to amend* 943.50 (4) (a), 943.50 (4) (bf) and 946.82 (4); and *to create*  
2 134.715, 943.50 (3m) (am) and 943.50 (4m) of the statutes; **relating to:** retail  
3 theft, proof of ownership for certain sales, and providing penalties. ✓

✓ and returns of flea market sales ✓

### *Analysis by the Legislative Reference Bureau*

Under current law, the penalty for retail theft is based on the value of the merchandise taken. Retail theft is a Class A misdemeanor if the value of the merchandise does not exceed \$2,500, a Class I felony if the value of the merchandise exceeds \$2,500 but does not exceed \$5,000, a Class H felony if the value of the merchandise exceeds \$5,000 but does not exceed \$10,000, and a Class G felony if the value of the merchandise exceeds \$10,000.

Also under current law a person may be convicted of engaging in organized crime, a Class E felony, if the person participates as part of an enterprise in the commission of at least three incidents of racketeering activity that have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics. "Racketeering activity" is the attempt, conspiracy to commit, or commission of various felonies including felony retail theft.

This bill makes retail theft of merchandise a Class I felony, and racketeering activity, if the value of the merchandise exceeds \$1,500 but does not exceed \$5,000. The bill also makes retail theft of merchandise that is valued at less than \$1,500 a Class I felony, and racketeering activity, if the actor commits the theft with intent to sell the merchandise by means of the Internet. The bill further provides that

**BILL**

evidence that a person sold merchandise that is similar to stolen merchandise, by means of the Internet and within 90 days preceding the theft, is evidence of the person's intent to sell the stolen merchandise by means of the Internet.

The bill also requires a person selling certain merchandise at a flea market or similar facility to have proof that the person owns the merchandise and to make the proof available to a law enforcement officer for inspection. The merchandise covered by the bill's requirements includes baby food, cosmetics, drugs, infant formula, and batteries. Under the bill, "proof of ownership" means all of the following: 1) the name, address, and telephone number of the supplier of the merchandise; 2) the name and address of the person that received the merchandise; and 3) a description of the merchandise. Violators are subject to a fine up to \$500, up to 30 days' imprisonment, or both.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

Flea markets; ← (B)

SECTION 1. 134.715 of the statutes is created to read:

(2) **134.715 Proof of ownership required for sale.** (1) DEFINITIONS. In this section:

receipts, returns ← (B)

(a) "Cosmetic" means an article intended to be applied to the human body for cleansing, beautifying, or altering appearance, but does not include soap.

(b) "Device" has the meaning given in s. 450.01 (6).

(c) "Drug" has the meaning given in s. 450.01 (10).

(d) "Infant formula" means a food that is intended for consumption by infants.

(2) PROOF REQUIRED. (a) A person engaged in the sale of used or new goods at a flea market or at a similar facility may not sell any of the following merchandise, unless the person has proof that the person is the owner of the merchandise as described in par. (b):

1. Baby food of a type usually consumed by children under 3 years of age.

2. Cosmetics.

3. Devices.



**BILL**

1 4. Drugs.

2 5. Infant formula.

3 6. Batteries.

4 7. Razor blades.

5 (b) Proof of ownership means all of the following information:

6 1. The name, address, and telephone number of the person that supplied the  
7 merchandise or a representative of the person that supplied the merchandise.

8 2. The name and address of the person that received the merchandise from the  
9 person who supplied the merchandise.

10 3. A description of the product, including the quantity of the product received  
11 from the person who supplied the merchandise.

12 (c) A person required to have proof of ownership under this section shall make  
13 proof of ownership available for inspection by a law enforcement officer at any  
14 reasonable time.

15 (3) PENALTY. A person who violates this section may be fined not more than  
16 \$500 or imprisoned for not more than 30 days or both.

17 **SECTION 2.** 943.50 (3m) (am) of the statutes is created to read:

18 943.50 (3m) (am) For the purpose of sub. (4m), evidence that a person sold by  
19 means of the Internet merchandise that is similar to the merchandise that is the  
20 subject of a violation under sub. (1m) (a), (b), (c), (d), (e), or (f), within 90 days before  
21 the violation, is prima facie evidence of the person's intent to sell the merchandise  
22 by means of the Internet.

23 **SECTION 3.** 943.50 (4) (a) of the statutes is amended to read:

24 943.50 (4) (a) ~~A~~ Except as provided in sub. (4m), a Class A misdemeanor, if  
25 the value of the merchandise does not exceed ~~\$2,500~~ \$1,500.

INS  
3-14

**BILL**

**SECTION 4.** 943.50 (4) (bf) of the statutes is amended to read:

943.50 (4) (bf) A Class I felony, if the value of the merchandise exceeds \$2,500 \$1,500 but does not exceed \$5,000.

**SECTION 5.** 943.50 (4m) of the statutes is created to read:

943.50 (4m) Whoever violates sub. (1m) (a), (b), (c), (d), (e), or (f) with intent to sell the merchandise by means of the Internet is guilty of a Class I felony if the value of the merchandise does not exceed \$1,500.

**SECTION 6.** 946.82 (4) of the statutes is amended to read:

946.82 (4) "Racketeering activity" means any activity specified in 18 USC 1961 (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission of any of the felonies specified in: chs. 945 and 961, subch. V of ch. 551, and ss. 49.49, 134.05, 139.44 (1), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625, 221.0636, 221.0637, 221.1004, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (4) to (6), 940.20, 940.201, 940.203, 940.21, 940.30, 940.302 (2), 940.305, 940.31, 941.20 (2) and (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g), 943.011, 943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (bf) to (e), 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27, 943.28, 943.30, 943.32, 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4) (bf), (bm), and (c), and (4m), 943.60, 943.70, 943.76, 943.81, 943.82, 943.83, 943.84, 943.85, 943.86, 943.87, 943.88, 943.89, 943.90, 944.21 (5) (c) and (e), 944.32, 944.33 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11, 946.12, 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76, 946.79, 947.015, 948.05, 948.051, 948.08, 948.12, and 948.30.

(END)

2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-2058/2ins  
CTS:.....

use twice  
↓

merchandise

1 **Insert A:**

NO \$

Also under the bill, a seller must issue a receipt to a person who purchases such goods and must refund the purchase price if the purchaser presents the receipt and the goods in substantially the same condition in which they were purchased.

2 **Insert 3-14:**

merchandise

3 (3) RECEIPTS; RETURNS. A person engaged in the sale of used or new goods

4 described in sub. (2) (a) 1. to 7. at a flea market or at a similar facility shall issue a

5 written receipt to a purchaser of goods that identifies the goods sold and the price

6 paid by the purchaser. If the purchaser presents to the seller the receipt and the

7 goods identified in the receipt in substantially the same condition in which the goods

8 were sold, the seller shall refund to the purchaser the price specified on the receipt.

merchandise

merchandise was

3/23 Eric Peterson/Taylor

Redraft LRB-2088/2 : delete receipt / return  
provisions added in /2.



## 2009 BILL

X  
Rege

1 AN ACT *to amend* 943.50 (4) (a), 943.50 (4) (bf) and 946.82 (4); and *to create*  
2 134.715, 943.50 (3m) (am) and 943.50 (4m) of the statutes; **relating to:** retail  
3 theft, proof of ownership and receipts for flea market sales and returns of flea  
4 market sales, and providing penalties.

---

### *Analysis by the Legislative Reference Bureau*

Under current law, the penalty for retail theft is based on the value of the merchandise taken. Retail theft is a Class A misdemeanor if the value of the merchandise does not exceed \$2,500, a Class I felony if the value of the merchandise exceeds \$2,500 but does not exceed \$5,000, a Class H felony if the value of the merchandise exceeds \$5,000 but does not exceed \$10,000, and a Class G felony if the value of the merchandise exceeds \$10,000.

Also under current law a person may be convicted of engaging in organized crime, a Class E felony, if the person participates as part of an enterprise in the commission of at least three incidents of racketeering activity that have the same or similar intents, results, accomplices, victims, or methods of commission or otherwise are interrelated by distinguishing characteristics. "Racketeering activity" is the attempt, conspiracy to commit, or commission of various felonies including felony retail theft.

This bill makes retail theft of merchandise a Class I felony, and racketeering activity, if the value of the merchandise exceeds \$1,500 but does not exceed \$5,000. The bill also makes retail theft of merchandise that is valued at less than \$1,500 a Class I felony, and racketeering activity, if the actor commits the theft with intent to

**BILL**

sell the merchandise by means of the Internet. The bill further provides that evidence that a person sold merchandise that is similar to stolen merchandise, by means of the Internet and within 90 days preceding the theft, is evidence of the person's intent to sell the stolen merchandise by means of the Internet.

The bill also requires a person selling certain merchandise at a flea market or similar facility to have proof that the person owns the merchandise and to make the proof available to a law enforcement officer for inspection. The merchandise covered by the bill's requirements includes baby food, cosmetics, drugs, infant formula, and batteries. Under the bill, "proof of ownership" means all of the following: 1) the name, address, and telephone number of the supplier of the merchandise; 2) the name and address of the person that received the merchandise; and 3) a description of the merchandise. Also under the bill, a seller must issue a receipt to a person who purchases such merchandise and must refund the purchase price if the purchaser presents the receipt and the merchandise in substantially the same condition in which they were purchased. Violators are subject to a fine up to \$500, up to 30 days' imprisonment, or both.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 134.715 of the statutes is created to read:

**134.715 Flea markets; proof of ownership, receipts, returns. (1)**

**DEFINITIONS.** In this section:

(a) "Cosmetic" means an article intended to be applied to the human body for cleansing, beautifying, or altering appearance, but does not include soap.

(b) "Device" has the meaning given in s. 450.01 (6).

(c) "Drug" has the meaning given in s. 450.01 (10).

(d) "Infant formula" means a food that is intended for consumption by infants.

**(2) PROOF REQUIRED.** (a) A person engaged in the sale of used or new goods at a flea market or at a similar facility may not sell any of the following merchandise, unless the person has proof that the person is the owner of the merchandise as described in par. (b):

1. Baby food of a type usually consumed by children under 3 years of age.

**BILL**

- 1           2. Cosmetics.
- 2           3. Devices.
- 3           4. Drugs.
- 4           5. Infant formula.
- 5           6. Batteries.
- 6           7. Razor blades.

7           (b) Proof of ownership means all of the following information:

8           1. The name, address, and telephone number of the person that supplied the  
9 merchandise or a representative of the person that supplied the merchandise.

10          2. The name and address of the person that received the merchandise from the  
11 person who supplied the merchandise.

12          3. A description of the product, including the quantity of the product received  
13 from the person who supplied the merchandise.

14          (c) A person required to have proof of ownership<sup>✓</sup> under this section shall make  
15 proof of ownership available for inspection by a law enforcement officer at any  
16 reasonable time.

17          (3) RECEIPTS; RETURNS. A person engaged in the sale of used or new merchandise  
18 described in sub. (2) (a) 1. to 7. at a flea market or at a similar facility shall issue a  
19 written receipt to a purchaser that identifies the merchandise sold and the price paid  
20 by the purchaser.<sup>✓</sup> If the purchaser presents to the seller the receipt and the  
21 merchandise identified in the receipt in substantially the same condition in which  
22 the merchandise was sold, the seller shall refund to the purchaser the price specified  
23 on the receipt.

24          (4) PENALTY. A person who violates this section may be fined not more than  
25 \$500 or imprisoned for not more than 30 days or both.

**BILL**

1       **SECTION 2.** 943.50 (3m) (am) of the statutes is created to read:

2       943.50 (**3m**) (am) For the purpose of sub. (4m), evidence that a person sold by  
3       means of the Internet merchandise that is similar to the merchandise that is the  
4       subject of a violation under sub. (1m) (a), (b), (c), (d), (e), or (f), within 90 days before  
5       the violation, is prima facie evidence of the person's intent to sell the merchandise  
6       by means of the Internet.

7       **SECTION 3.** 943.50 (4) (a) of the statutes is amended to read:

8       943.50 (4) (a) ~~-A~~ Except as provided in sub. (4m), a Class A misdemeanor, if  
9       the value of the merchandise does not exceed \$2,500 \$1,500.

10      **SECTION 4.** 943.50 (4) (bf) of the statutes is amended to read:

11      943.50 (4) (bf) A Class I felony, if the value of the merchandise exceeds \$2,500  
12      \$1,500 but does not exceed \$5,000.

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14      943.50 (**4m**) Whoever violates sub. (1m) (a), (b), (c), (d), (e), or (f) with intent  
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16      value of the merchandise does not exceed \$1,500.

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18      946.82 (**4**) "Racketeering activity" means any activity specified in 18 USC 1961  
19      (1) in effect as of April 27, 1982, or the attempt, conspiracy to commit, or commission  
20      of any of the felonies specified in: chs. 945 and 961, subch. V of ch. 551, and ss. 49.49,  
21      134.05, 139.44 (1), 180.0129, 181.0129, 185.825, 201.09 (2), 215.12, 221.0625,  
22      221.0636, 221.0637, 221.1004, 553.41 (3) and (4), 553.52 (2), 940.01, 940.19 (4) to (6),  
23      940.20, 940.201, 940.203, 940.21, 940.30, 940.302 (2), 940.305, 940.31, 941.20 (2) and  
24      (3), 941.26, 941.28, 941.298, 941.31, 941.32, 942.09, 943.01 (2), (2d), or (2g), 943.011,  
25      943.012, 943.013, 943.02, 943.03, 943.04, 943.05, 943.06, 943.10, 943.20 (3) (bf) to (e),



**BILL**

1 943.201, 943.203, 943.23 (1g), (2) and (3), 943.24 (2), 943.27, 943.28, 943.30, 943.32,  
2 943.34 (1) (bf), (bm), and (c), 943.38, 943.39, 943.40, 943.41 (8) (b) and (c), 943.50 (4)  
3 (bf), (bm), and (c), and (4m), 943.60, 943.70, 943.76, 943.81, 943.82, 943.83, 943.84,  
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5 (2), 944.34, 945.03 (1m), 945.04 (1m), 945.05 (1), 945.08, 946.10, 946.11, 946.12,  
6 946.13, 946.31, 946.32 (1), 946.48, 946.49, 946.61, 946.64, 946.65, 946.72, 946.76,  
7 946.79, 947.015, 948.05, 948.051, 948.08, 948.12, and 948.30.

8 (END)

**Barman, Mike**

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**From:** Peterson, Eric  
**Sent:** Tuesday, April 14, 2009 7:59 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 09-2058/3 Topic: Retail theft; proof of ownership for sales at flea market

Please Jacket LRB 09-2058/3 for the SENATE.